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9 **UNITED STATES DISTRICT COURT**  
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN FRANCISCO DIVISION**  
12

13 JONATHAN D. RUBIN, on behalf of  
14 himself and all others similarly situated,  
  
15 Plaintiff,  
  
16 v.  
17 FACEBOOK, INC.; SCL GROUP;  
18 GLOBAL SCIENCE RESEARCH LTD.,  
and CAMBRIDGE ANALYTICA, LLC;  
19 Defendants.  
20

Case No. 3:18-cv-01852-VC

**NOTICE OF AND MOTION FOR  
EXTENSION OF TIME FOR  
DEFENDANTS CAMBRIDGE  
ANALYTICA, LLC AND SCL GROUP  
LTD. TO RESPOND TO COMPLAINT**

Hearing Date: May 24, 2018  
Hearing Time: 10:00 a.m.  
Department: 4, 17th Floor  
Judge: Hon. Vince Chhabria

**NOTICE OF MOTION****TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE THAT** on May 24, 2018 at 10:00 a.m., or as soon thereafter as the subject matter of this Motion may be heard before the Honorable Vince Chhabria, in Courtroom 4, on the 17th floor of the above-captioned court located at 450 Golden Gate Avenue, San Francisco, California 94102, Defendants Cambridge Analytica, LLC (“CA”) and SCL Group Ltd. (“SCL”) will and hereby do move for an Order extending their time to respond to the Complaint to from April 24, 2018 until after a decision by the Judicial Panel on Multidistrict Litigation (“JMPL”) on a pending motion to consolidate this action with twenty-two other proposed class actions involving the same subject matter (the “Motion to Consolidate”). (*See In re Facebook User Profile Litigation*, MDL No. 2843.)

Defendants CA and SCL base this Motion on the following Memorandum of Points and Authorities, the evidence cited therein, the declaration in support of the Motion, and all records on file with the court in connection with this case or which may be submitted prior to the time of the hearing.

## MEMORANDUM OF POINTS AND AUTHORITIES

Since just one month ago, nineteen actions all across the country have been filed against Defendants CA and/or SCL. Given the number of actions CA and SCL must simultaneously respond to, Defendants CA and SCL require additional time to meaningfully investigate the allegations of the Complaint and form their defenses. Nevertheless, Plaintiff refuses to provide CA and SCL with the requested extension, *despite the fact that Plaintiff has already consented to Defendant Facebook's Motion to Stay all Proceedings*. Because this action is currently subject to a Motion to Consolidate pending before the JPML, and because Plaintiff has already consented to Facebook's Motion to Stay all proceedings pending a decision from the JPML, CA and SCL respectfully request that this Court extend their time to respond to the Complaint until after a decision from the JPML.

### **I. RELEVANT PROCEDURAL BACKGROUND**

#### **A. The Present Action**

On March 26, 2018, Plaintiff filed the present action. Plaintiff served CA and SCL on April 3, 2018. CA's and SCL's current deadline to answer or otherwise respond to the Complaint is April 24, 2018.

#### **B. The Twenty-One Other Actions and Investigations**

Since March 20, 2018, eighteen additional actions across nine different jurisdictions have been filed against CA and/or SCL:

- *O'Hara et al. v. Facebook, Inc. et al.*, C.D. Cal. Case No. 8:18-cv-00571
- *Redmond et al. v. Facebook, Inc. et al.*, D. Del. Case No. 1:18-cv-00531
- *Malskoff et al. v. Facebook, Inc., et al.*, D.N.J. Case No. 2:18-cv-04451
- *Williams v. Facebook, Inc. et al.*, N.D. Ala. Case No. 2:18-cv-00535
- *Price v. Facebook, Inc. et al.*, N.D. Cal. Case No. 3:18-cv-01732
- *Rubin v. Facebook, Inc. et al.*, N.D. Cal. Case No. 3:18-cv-01852
- *Gennock v. Facebook, Inc. et al.*, N.D. Cal. Case No. 3:18-cv-01891
- *O'Kelly v. Facebook, Inc. et al.*, N.D. Cal. Case No. 3:18-cv-01915
- *Beiner et al. v. Facebook, Inc. et al.*, N.D. Cal. Case No. 3:18-cv-01953

- *Haslinger v. Facebook, Inc. et al.*, N.D. Cal. Case No. 3:18-cv-01984
- *Picha v. Facebook, Inc. et al.*, N.D. Cal. Case No. 3:18-cv-02090
- *King v. Facebook, Inc. et al.*, N.D. Cal. Case No. 3:18-cv-02276
- *Kooser et al. v. Facebook, Inc. et al.*, N.D. Cal. Case No. 4:18-cv-02009
- *Labajo v. Facebook, Inc. et al.*, N.D. Cal. Case No. 4:18-cv-02093
- *Comforte et al. v. Cambridge Analytica et al.*, N.D. Ill. Case No. 1:18-cv-02120
- *People of the State of Illinois v. Facebook, Inc. et al.*, N.D. Cal. Ill. 1:18-cv-02667
- *Lodowski v. Facebook, Inc., et al.*, S.D. Tex. Case No. 4:18-cv-00907
- *Johnson v. Wylie et al.*, W.D. Pa. 2:18-cv-00415
- *Ortiz v. Cambridge Analytica, LLC*, N.Y. Sup. Ct. 153162/2018

Seventeen of these actions are proposed class actions. (*See* Declaration of Ashlee N. Lin (“Lin Decl.”) ¶ 2.)

In addition, since March 20, 2018, CA and/or SCL received multiple subpoenas from three different attorney general offices across the country and also received various complaints from the Federal Election Commission to which they need to respond. (*Id.* ¶ 3.)

### C. The Motion to Consolidate

On March 20, 2018, plaintiffs in the *Beiner* case filed the Motion to Consolidate before the JPML seeking to consolidate seventeen of these actions—including the present action—and transfer all actions to the Northern District of California. (*In re Facebook User Profile Litigation*, MDL No. 2843, ECF No. 1.)

All of the actions subject to the Motion to Consolidate, including the present action, are proposed class actions (the majority of which propose overlapping nationwide classes).

On April 20, 2018, CA and SCL filed a Response in support of the Motion to Consolidate. (*Id.*, ECF No. 73.)

The Motion to Consolidate is set for hearing before the JPML on May 31, 2018.

### C. Facebook’s Motion to Stay

On April 18, 2018, Defendant Facebook, Inc. (“Facebook”) filed a Motion to Stay all proceedings in this case until a decision from the JPML on the Motion to Consolidate. (ECF No.

23.) Facebook’s Motion to Stay expressly notes that if the stay is granted, “the parties can meet and confer regarding deadlines to respond to plaintiffs’ complaints.” (*Id.* at 9.) Plaintiffs in this case consented to Facebook’s Motion and the requested relief. (*Id.* at 4.)

CA and SCL agree with Facebook and Plaintiff that all proceedings should be stayed pending a decision by the JPML on the Motion to Consolidate.

### C. Defendants Meet and Confer Efforts

Counsel for CA and SCL were retained in this matter on or around April 12, 2018. (Lin Decl. ¶ 4.) On April 18, 2018, Counsel reached out to Plaintiff’s counsel to seek an extension of time for CA and SCL to respond to the Complaint. (*Id.* ¶ 5.)

Over the next two days, CA and SCL counsel discussed with Plaintiff’s counsel the requested extension. (*Id.*) Plaintiff refused to provide the requested extension (or *any* extension) without consent from *every other plaintiff* in *every other action* consenting to similar extension of time. (*Id.* ¶ 5, Ex. A.)

CA and SCL are and have been actively trying to secure consent for a similar extension from the plaintiffs in each of the actions, and have secured such consent from a majority of the plaintiffs. (*Id.* ¶ 6.) However, there is a contingent of the plaintiffs’ counsel that have apparently conferred and are all requiring consent from all of the other plaintiffs in all of the other actions before providing their own consent. (*Id.* ¶¶ 7–8, Exs. B–C.) Of course, since more than one plaintiff has taken this position, it will be impossible to meet any of these demands.

## II. THIS COURT SHOULD GRANT THE REQUESTED STAY

### A. CA and SCL Require Additional Time to Respond

Over the past few weeks, CA and/or SCL have been in the process of trying to respond to the nineteen different litigations that have been filed all over the country. (Lin Decl. ¶ 9.) CA and SCL are also in the process of responding to multiple subpoenas for documents and information from different attorneys general. (*Id.*) CA and SCL are also in the process of responding to complaints from the Federal Election Commission. (*Id.*) CA and SCL have also been preparing a brief in response to the Motion to Consolidate pending before the JPML. (*Id.*) Responding to the over two dozen matters that have been initiated against CA and/or SCL in the

1 past month is a significant undertaking. And while CA and SCL (and their counsel) have been  
 2 working diligently to address each matter, CA and SCL simply require more time to meaningful  
 3 investigate and respond to each of the allegations in Plaintiff's complaint and prepare their  
 4 defenses. (*Id.* ¶ 10.)

5 **B. The Requested Extension is Reasonable**

6 CA and SCL are seeking an extension of time that is reasonable: until after a decision by  
 7 the JPML on the pending Motion to Consolidate. Plaintiff implicitly acknowledges this is a  
 8 reasonable amount of time, as Plaintiff has already consented to a stay of all proceedings  
 9 (including CA and SCL's time to respond) pending a decision from the JPML.

10 Furthermore, extending CA's and SCL's deadline to respond to the Complaint until after  
 11 a decision by the JPML will promote efficiencies and conserve judicial resources. First, CA and  
 12 SCL's response to the Complaint will raise issues with the proposed nationwide class of  
 13 plaintiffs, which overlaps with each of the proposed classes in each of the other actions subject to  
 14 the pending Motion to Consolidate. Addressing those issues now could lead to inconsistent  
 15 rulings. Furthermore, should this case get transferred to another court by the JPML, the most  
 16 efficient use of judicial resources will be to let the transferee court decide any substantive issues  
 17 relating to the Complaint (e.g. failure to state a claim). *See Barnes v. Equinox Grp., Inc.*, No. C  
 18 10-03586 LB, 2010 U.S. Dist. LEXIS 138863, at \*8 (N.D. Cal. Dec. 30, 2010) (staying deadlines  
 19 pending JPML decision "will avoid unnecessary expenditure of time and resources, potential  
 20 duplication of efforts, and will allow the Court and the parties to make an informed assessment  
 21 of the proper timeline for managing this case . . . .")

22 **C. Plaintiff Has Provided No Reasonable Basis for Refusing to Agree to an**  
 23 **Extension**

24 Despite various conversations, Plaintiff has articulated no reasonable basis for refusing  
 25 the requested extension, *particularly* in light of the fact that Plaintiff has already agreed to stay  
 26 all proceedings. Plaintiff has only stated that he will not agree unless "all other Plaintiffs'  
 27 counsel agree." (Lin Decl. ¶ 5, Ex. A.) As a threshold matter, it is entirely unclear to CA and  
 28 SCL why their agreement with other plaintiffs in other cases has any bearing on Plaintiff's

1 ability to grant the requested extension in *this* case. Furthermore, Plaintiff's demand apparently  
 2 stems from conferring with other plaintiffs' counsel in other cases, as several plaintiffs in several  
 3 other cases have taken a similar position with CA and SCL as of April 19, 2018 (the plaintiffs  
 4 were freely granting the requested extension prior to this time). (*See id.* ¶¶ 7–8, Exs. B–C.) But,  
 5 of course, since multiple plaintiffs are refusing to consent unless all other plaintiffs consent, CA  
 6 and SCL will never be able to secure the requisite consent.

7 Such gamesmanship has resulted in needless motion practice and a waste of resources.

## 8 **II. CONCLUSION**

9 For the foregoing reasons, Defendants CA and SCL respectfully request that this Court  
 10 grant CA and SCL an extension of time to respond until after a decision by the JPML on the  
 11 Motion to Consolidate consistent with Facebook's Motion to Stay.

12  
 13  
 14 DATED: April 20, 2018

By: /s/ Mark C. Scarsi

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19 *Attorneys for Defendants*

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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing document has been served via the Court's CM/ECF system on all counsel of record on April 20, 2018.

/s/ Ashlee N. Lin  
Ashlee N. Lin